

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah, in the interest)	MEMORANDUM DECISION
of D.W., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20051025-CA
)	
J.W.,)	F I L E D
)	(February 9, 2006)
Appellant,)	
)	2006 UT App 42
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 459702
The Honorable Robert S. Yeates

Attorneys: Gary L. Bell, South Jordan, for Appellant
Mark Shurtleff and John M. Peterson, Salt Lake City,
for Appellee
Martha Pierce and Tracy S. Mills, Salt Lake City,
Guardians Ad Litem

Before Judges Bench, Billings, and Thorne.

PER CURIAM:

J.W. appeals the termination of his parental rights, claiming that he was not provided a "constitutionally appropriate reunification opportunity." In juvenile court, he argued that the court should have allowed him an entire twelve-month period for reunification and that the State petitioned to terminate his parental rights without giving him adequate time to pursue reunification. J.W. does not challenge any of the grounds for termination.

"Reunification services are a gratuity provided to parents by the Legislature, and appellants thus have no constitutional right to receive these services." In re N.R., 967 P.2d 951, 955-

56 (Utah Ct. App. 1998); see also Utah Code Ann. § 78-3a-311(3)(b) (Supp. 2005) (allowing the court to decline to provide reunification services based upon individual circumstances). Because there is no fundamental right to receive services, the decision to provide or deny services is "in the judge's discretion" and "a judge may deny services if for any reason he or she finds they are inappropriate." N.R., 967 P.2d at 965.

The court found that J.W. failed to abide by orders of the court, did not attend visits authorized by the court, and refused to meet with the caseworker to finalize a service plan. After J.W. failed to attend the dispositional hearing in May 2005, despite having received notice, the court ordered that the State was not obligated to provide reunification services. J.W. argued that he was prevented from attending the dispositional hearing because he was incarcerated. However, even prior to that hearing, J.W. failed to comply with the court's orders that required him to submit to a drug test, meet with the caseworker, and attend a visit, on specific dates and times. Based upon the circumstances before the court at the time of disposition, the court did not abuse its discretion in ordering that the State was not obligated to provide reunification services.

If reunification services are not ordered at the dispositional hearing, a permanency hearing must be held within thirty days from the date of the dispositional hearing. See Utah Code Ann. § 78-3a-312(1)(b) (Supp. 2005). There is no entitlement to reunification services for any specified period of time. See id. § 78-3a-312(7)(a). In addition, there is no prohibition or limitation on "the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time prior to a permanency hearing." Id. § 78-3a-312(7)(c). J.W. has not demonstrated that he was entitled to pursue reunification for any particular period of time or that the State was precluded from filing the termination petition after the court determined that the State was not obligated to provide reunification services. At the time of the termination trial in September 2005, J.W. had not seen D.W. since his removal the preceding February. J.W. was incarcerated for almost four months of that period, and he still faced pending felony charges. Although he admitted a four-year substance abuse history that had impaired his ability to parent, he claimed, based solely on his own testimony and without obtaining any treatment, that he was now drug-free. Under the

circumstances, J.W. has not demonstrated that he was denied an appropriate reunification opportunity.

We affirm the order terminating parental rights.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

William A. Thorne Jr., Judge